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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER
BENGZON, GREG C

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The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALI J. TABATABAI, TOBY WALKER,
MOHAMMED ZUBAIR VISHARAM,
and HAWLEY K. RISING III

Appeal 2009-006541
Application 10/038,142
Technology Center 2400

Before MARC S, HOFF, CARLA M. KRIVAK and
THOMAS S. HAHN, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of

claims 1-90. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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[1] The two-month time period for filing an appeal or commencing a civil
action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing,
as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE"
(paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery
mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants' claimed invention is a method and apparatus for enabling data related to multimedia content to be encoded and transmitted (Spec. ¶ [0002]). Including an update command inside an access unit allows an encoder to send descriptions statically or dynamically (Spec. ¶ [0039]).

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. A computerized method comprising:

forming an access unit corresponding to a fragment of a multimedia description, the access unit being a network transmission data structure comprising a fragment update, the fragment update comprising a fragment update command that specifies a type of command for execution by a decoder to update the multimedia description; and

forming an encoded data stream from the access unit.

REFERENCES

Srivastava	US 6,549,922 B1	Apr. 15, 2003
Paek	US 7,143,434 B1	Nov. 28, 2006
Vandersluis	US 7,165,073 B2	Jan. 16, 2007

XPath Specifications, *News Release: World Wide Web Consortium Issues XSL Transformations (XSLT) and XML Path Language*, Nov. 16, 1999

The Examiner rejected claims 1-90 under 35 U.S.C. § 112, second paragraph as being indefinite.

The Examiner rejected claims 1-5, 7-35, 37-65, and 67-90 under 35 U.S.C. § 103(a) based upon the teachings of Paek and Vandersluis.

The Examiner rejected claims 6, 36, and 66 under 35 U.S.C. § 103(a) based upon the teachings of Paek, Vandersluis, Srivastava, and XPath.

Appellants contend the Examiner erred in finding the claims indefinite under 35 U.S.C. § 112, second paragraph (App. Br. 5-6; Reply Br. 2).[2] Appellants also contend that the Examiner erred in finding Paek discloses descriptions updating fragments of multimedia information and Vandersluis does not disclose Appellants' claimed fragment update command (App. Br. 7; Reply Br. 3-4).

ANALYSIS

The Examiner finds Paek teaches all the features of Appellants' claimed invention except for the fragment update "comprising a fragment update command wherein *the fragment update command specifies a type of command for execution by a decoder to update a multimedia description*," but that Vandersluis teaches this feature (Ans. 6). The Examiner then finds the motivation for combining Paek and Vandersluis would have been obvious because Paek discloses content exchange for MPEG-7 video editing, and Vandersluis discloses flexibly selecting only those portions of a data file that suit a particular purpose at the time (Ans. 7).

We find, however, the Examiner has not set forth rationale as to how these two references can be combined. Rather, the Examiner has merely made statements regarding the access unit and the fragment update, but has not set forth how the video content in Paek corresponds to an access unit that is a network transmission data structure including a fragment update, as claimed by Appellants (Ans. 6; *see* App. Br. 7). Further, the Examiner has not explained how an update command, in Vandersluis, for manipulating

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[2] The Supplemental Appeal Brief filed on February 13, 2008, is referenced throughout this opinion.

hierarchical data as applied to XML data streams teaches or suggests the claimed fragment update command (Ans. 18; *see* App. Br. 7). That is, the Examiner has merely provided arguments without explanation and therefore, has not met the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Thus, claims 1-90 are not obvious over the collective teachings of the cited references.

With respect to the rejection under 35 U.S.C. § 112, second paragraph, as Appellants pointed out, the Examiner has not responded to Appellants' arguments (App. Br. 5-6; Reply Br. 2), which we find persuasive. We agree with Appellants' assertions that the terms "access unit" and "fragment update command" are not indefinite (App. Br. 5-6). Thus, claims 1-90 are not indefinite under 35 U.S.C. § 112, second paragraph.

CONCLUSION

The Examiner erred in rejecting claims 1-90 under 35 U.S.C. § 112, second paragraph and 35 U.S.C. § 103(a).

DECISION

The Examiner's decision rejecting claims 1-90 is reversed.

REVERSED

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040